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## APPENDIX.

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### SOCIAL AND ECONOMIC LEGISLATION OF THE STATES IN 1890.

It is the purpose of this article to review briefly so much of the State legislation of 1890 as may be said to have a direct and important social or economic bearing. The material may be grouped, for convenience of treatment, in six general classes: (1) laws concerning the family and domestic relations; (2) laws providing for the State care of the unfortunate and depraved members of society; (3) laws for the regulation of labor and the laboring classes; (4) laws for the regulation of the different forms of corporate industry and concentrated capital; (5) State and local finance; (6) all legislation looking to the development of natural resources.

(1) No important addition was made to the confused and confusing mass of statute law on divorce in the different States. An important step was taken towards improvement, however, by the appointment of the New York Commission on Uniformity of Legislation, with power to confer with similar commissions from other States. An exhaustive study was made of the whole body of existing law on the subject, and active co-operation has been promised in most of the Eastern States.

(2) In New York the whole system of the care of pauper insane was revolutionized. This burden had always been borne by the counties, and many abuses had crept into the management of the county asylums in which such paupers were kept. By the law of 1890 the inmates of these county asylums were transferred to the State insane asylums. The State is divided into as many districts as there are State asylums. A board, consisting of the State Commissioners in Lunacy, the President of the State Board of Health, and the State Comptroller, is to have supervision of all such matters

as changes in the asylum district limits, erection of additional buildings, and transfers from one district to another when buildings in the first are filled. The maintenance of insane poor wholly ceases to be a county charge, and becomes an object of State expenditure. Large appropriations were needed to carry into effect some of the provisions of this law, and the call for these grants has roused some opposition in the present (1891) session of the legislature. A prominent member of the State Senate is reported to have recently declared that the accommodations afforded by the counties were quite good enough. An active lobby has been at work for the repeal of the law, but with no prospects of success. Among most of the thinking people of the State — certainly among those who have given special attention to this and kindred problems — the opinion strongly prevails that the passage of the law of 1890 was a triumph of intelligent, well-directed effort to broaden and improve the administration of an important public charity.

Other noteworthy features of the New York legislation of the year were the establishment of a new Lunacy Commission, and a provision for the appointment of at least one woman physician in each State insane hospital.

The new State of Washington makes careful provision for the instruction of all blind, deaf-mute, and feeble-minded youth between the ages of six and twenty-one years. Mississippi requires assessors to report the names of blind children to the Superintendent of the State Blind Institute.

Passing now to penal and reformatory regulations, we note a distinct tendency to harmonize prison management and discipline with humane and rational principles. Iowa puts in operation a new scheme of time-deduction from convicts' sentences, for good behavior. The same or similar schedules are in use in other States. One month is deducted from the first year of the sentence, two months from the second, three from the third, and so on to the sixth, after which six months are deducted from each year for the remainder of the sentence. Thus a ten years' sentence would be reduced to six years and three months, a twenty years' sentence to eleven years and three months.

Ohio provides for the parole of workhouse prisoners, under certain conditions. In Virginia and Mississippi there are minute regulations of the contract system which prevails in those States. Virginia, however, has taken a long stride forward in dealing with her criminal youth, and others guilty of minor misdemeanors. Such offenders may now be committed to the custody of the State Prison Association. That organization is to have the same power that prison authorities have and to receive the same compensation for care of the prisoners that jailers receive. This experiment will be watched with great interest.

(3) A new bureau of labor statistics was created by South Dakota,—the twenty-third in the list of State bureaus. It is noticeable that the newer Western States are nearly as active as the older in the collection of industrial statistics, although a much smaller proportion of the population is employed in manufacturing. Ohio requires her bureau to open free employment offices in all the principal cities of the State. Lists are to be kept of persons desiring employment, in different occupations, as well as of employers; and the office for each city is to be supplied with lists forwarded from all the other cities of the State.

The Massachusetts Board of Arbitration is empowered to summon expert witnesses to give information on questions which come before it.

Perhaps the most important new legislation of the year on the payment of wages was the New York "weekly payment" law, which provides that "every manufacturing, mining or quarrying, lumbering, mercantile, railroad, surface, street, electric, and elevated railway (*except steam surface railroads*), steamboat, telegraph, telephone, and municipal corporation, and every incorporated express company and water company" shall pay each of its employees weekly the wages earned to within six days of date of payment. The State Factory Inspector may bring action against corporations for neglect to comply with the provisions of this act. Assignments of future wages by employees to corporations shall not be a valid defence in such action. The courts have held that the law was intended by the legislature for the protection of laborers

and workmen, and does not apply to clerks, officers, school-teachers, firemen, patrolmen, and others who receive salaries (N. Y. Supreme Court, in *People v. City of Buffalo*). A similar law has been in force for some time in Massachusetts.

In Maryland and Ohio railroad companies may not withhold from employees any part of their wages for relief or insurance purposes.

The labor laws of Louisiana and Mississippi are partially indicative of the peculiar agrarian conditions of the plantation States under the present *régime*. They forbid the enticing of "laborers and renters" away from employers and landlords,—a species of interference in contracts not generally prevalent, and hence not often a subject of legislation, outside the old slave belt.

Of "factory legislation" there was less in 1890 than in some preceding years. The New York inspector was vested with the appointment of eight women as additional deputy inspectors,—a number equal to that of the male deputies previously in office. The wisdom of this provision can hardly be questioned, especially when the difficulties in the way of eliciting needed information on many subjects from female employees are considered. Much useful work has already been done by the women inspectors appointed under this law, and in forthcoming reports new light will undoubtedly be thrown on the condition of women wage-workers in the State.

The inspector is further granted new powers in the investigation of accidents in manufacturing establishments, and fire-escapes on factory buildings must be approved by him.

The few mild regulations of the hours of factory labor which were placed on the statute books last year indicate no well-marked tendency to accede to the demands of the eight-hour movement. Virginia enacts that ten hours shall hereafter constitute a day's labor for children under fourteen, and women. New York already had a similar limitation in the case of women under twenty-one, and all persons under eighteen. New York further prohibited the working of such employees between the hours of 9 P.M. and 6 A.M. Massachusetts now forbids altogether the employment of women (of any age), or of minors, from 10 P.M. to 6 A.M. This law is to go into effect July 1, 1891.

Closely connected with the regulation of children's labor are the compulsory education measures now in force in a number of States. In Massachusetts the required school attendance in each year is increased from twenty to thirty weeks in all districts in which schools are open that length of time. This applies to children from eight to fourteen years of age. Employers are required to surrender the "schooling certificates" of such children when they leave their employ. Ohio provides that all youth under sixteen, "not regularly employed," shall attend school for a full term (twenty weeks) each year. This is apart from the regular required attendance of *all* children from eight to fourteen (as in Massachusetts).

New York has shown a commendable desire to encourage night schools and other educational advantages for the working people, both young and old. Evening lecture courses are maintained at public expense in the cities of New York and Brooklyn. The State exempts from taxation the property of associations chartered for the maintenance of free night schools, lecture courses, and libraries.

New Jersey passed a free text-book law, and Iowa conferred on school boards the power to purchase books and supply them to the pupils at cost price. Ohio undertakes to supply indigent pupils with books free of charge.

Railroad labor received its share of attention in the legislatures of 1890, partly on grounds of protection to the travelling public, through prevention of accidents, but largely, also, with the avowed intention of securing justice to the employees. In Ohio trainmen and engineers may not be kept on duty more than twenty-four hours consecutively. (The bald fact that such a limitation was necessary may well surprise us.) A rest of at least eight hours must follow before work is resumed; while ten hours shall constitute the working day, in computation of wages. Another Ohio law permits railroad employees to demand the reason of discharge, within ten days, and forbids all rules or contracts by which their rights to damages are surrendered. The use of defective machinery by the company is to be *prima facie* evidence of neglect. Iowa requires automatic safety couplers and brakes on all cars and engines, to obviate the necessity of brakemen passing between cars.

There are numerous laws designed to secure the safety and

health of the employed classes. Massachusetts now requires the proprietors of all mercantile as well as manufacturing establishments to report accidents to employees. New York organizes a system of mine-inspection, embracing many provisions for the security and well-being of the miners. In Washington only safety cages are to be permitted in mines; and in Iowa all mine-owners must construct escape-shafts.

The Louisiana State Board of Health is authorized to make rules for the protection of the health of operatives in workshops and laboratories where poisonous substances are handled. By the phraseology of the act, practically unlimited powers seem to be conferred on the Board in the regulation of the use of poisons in manufactures, and even in the management of the shops.

Aside from the slight changes already noted in connection with factory laws, there were few modifications of the legalized hours of labor anywhere in the country. Massachusetts adopted the nine-hour day for laborers employed by the State, cities, or towns. Virginia forbids the loading or unloading on Sunday of the cargoes of steam vessels, except mails, passengers, and baggage, through freight in transit, live stock, perishable articles, and freight at intermediate ports for final destination. Iowa and Ohio establish "Labor Day," following in the wake of several Eastern States.

A part of the electoral reform legislation of the year was in the nature of labor regulation and protection. Thus the "Corrupt Practices Act" in New York prohibits employers enclosing the pay of employees in "pay-envelopes" on which are printed political mottoes intended to influence the opinions or actions of the employees. It also forbids the posting of placards containing notice that in case of the election of any particular ticket or candidate work will cease or wages be reduced. The Saxton ballot law permits absence from work for two hours on election day without loss or reduction of pay. (It has been alleged that this provision is virtually an impairment of contract; but at this writing no judicial decision has been had on the question.)

The regulation of the liquor traffic is generally recognized as a problem of especial significance in its relation to the welfare of the laboring population. But little advance was made

during the legislative sessions of 1890 by the advocates of either high license or prohibition. The stringent prohibitory legislation of Iowa and the Dakotas was as a matter of course. In those States holders of permits to sell liquor are surrounded by restrictions which make it apparently impossible for habitual drinkers to obtain any beverage containing alcohol, especially in case of protest by members of the family. In several States attempts were made to place greater restrictions on the sale of liquor to minors. In Maryland minors are liable to punishment for misrepresenting their ages in order to obtain liquors. (In many States the sale of cigarettes or tobacco in any form to minors under a certain age is forbidden.)

(4) A very large share of the time and energies of nearly all our State law-making bodies is given to corporations, either in general or private legislation. The number and diversity of the resulting statutes, from year to year, are well-nigh overwhelming. In New York, last year, all the corporation law of the State was codified and revised by a commission, and re-enacted. Even after the repeals and condensations, it occupies one hundred and sixteen closely printed octavo pages. It would be useless to undertake a summary of the many important provisions contained in this codification, even should our space permit. Most of these have been reproduced from time to time in other States. They are intended to apply to almost every form of organized industrial activity known to our civilization; and it is probably safe to predict that, as new forms of such activity come into being, it will be no fault of our legislators if they are not guarded with appropriate and studied restrictions.

At least six States had important new legislation in 1890 on the taxation of corporations. Vermont vied with Maryland in levying tribute on the revenues of "foreign" corporations accruing from State business. Besides taxation, there are many minor regulations, enforced more or less strictly, in all the States. Thus Massachusetts requires that foreign corporations indicate the name of the State or country in which they were chartered on all advertising. Most States compel such corporations to make a deposit with a designated State officer, to file a copy of their charter, and to render a state-



ment of their condition on beginning business in the State, and annually thereafter. In some States a fixed license fee is exacted, in addition to the per centum tax on gross receipts. The legislation of 1890 can hardly be said to have increased the body of statute law in this department, except in the minutiae of detail with which our legislators are trying each year to chink up the walls of restriction that already surround (in appearance even the most grasping of the greedy corporations of which we hear so frequent complaints.

The original wave of "anti-trust" legislation was apparently followed by a second of even greater intensity in 1890. This was doubtless due to a succession of legal decisions in different parts of the country, all tending to confirm the laws of the preceding year. In North Dakota and Iowa, naturally, the laws are aimed more particularly against grain pooling. In Louisiana and other States the phraseology of the statutes is almost identical with that of the Interstate Trust Law passed by Congress.

Foremost among the corporations whose regulation has become a matter of real concern to the States are the railroads. The laws of 1890 contain one significant exception to the general tendency towards State as opposed to local (road-bed) taxation of these highways. Kentucky taxes her railroads for school purposes, through the school districts. That is, all the railroad property in each district (road-bed, stations, etc.) is assessed and taxed like other real estate in the district, and the proceeds go to support free schools.

Maryland, North Dakota, and Vermont, on the other hand, commit themselves fully to the policy of State taxation of the gross earnings by stringent enactments. A West Virginia statute forbidding the sale of railroads built wholly by county subscriptions, without the consent of the county courts, is suggestive of reckless railroad financiering in that State.

In other forms of railroad legislation the States show more or less zeal, as in former years. Mississippi attempts to compel the companies to maintain necessary depots, while North Dakota insists that depots be provided at railroad crossings. Iowa requires that a joint freight tariff be established for all the roads in the State, with the same accommodation to local as to interstate traffic. Kentucky makes a new provision

against discrimination in passenger fares. Louisiana fixes the maximum passenger tariff on her roads at three cents a mile.

North Dakota provides for the erection of public grain warehouses on the right of way of railroads. This privilege is to be granted by the railroads to warehouse companies without discrimination, and in the order of application. The railroad commissioners are to have supervision of these warehouses, as in Minnesota and other States. A very complete body of rules for the handling and storing of grain is incorporated in the four North Dakota laws known as the "Warehouse Acts."

The Massachusetts laws relating to railroad grade crossings have been in operation many years, probably antedating all similar legislation in the United States. As modified by the legislature of 1890, the chief provisions are as follows: After petition from the proper authorities of a municipality or the directors of a railroad company, and a hearing thereon, the Superior Court may appoint a commission of three disinterested persons to prescribe such alterations as will avoid a crossing of any highway by a railroad at grade. The railroad company shall pay 65 per cent. of the total cost of such alterations. The remaining 35 per cent. is to be apportioned by the commission between the Commonwealth and the city or town in which the crossing is located, but not more than 10 per cent. shall be apportioned to the latter. The decree of the Superior Court confirming the decision of the commission as to change in location of a railroad or public way shall constitute a taking of the specified land or other property. An agreement may, however, be entered into between the city or town authorities and the railroad directors, without recourse to the court, such agreement to be subject to approval by the Board of Railroad Commissioners.

In Rhode Island, also, the consent of the commissioners is required before such crossings may be established. Rhode Island finally abolishes the car stove, and leaves to the railroad commissioners the approval of new methods of car-heating, excluding, however, any form of stove.

Louisiana, with other Southern States, declares that passenger accommodations for white and colored people on railroad trains shall be equal, but separate.

Prominent in the list of foreign corporations taxed by Mary-

land on their revenues from business done in that State are the express, transportation, and telegraph companies. A State tax of one per cent. is assessed on such revenues, together with those of railroads; and for failure to pay these taxes for one month after they become due an additional five per cent. is to be forfeited. The home companies are taxed under different regulations. Vermont has entered upon a like system.

In the session laws of 1890 there are few traces of the bitter insurance war which has been waged of late in so many States. Little more can be done, it seems, by way of retaliation between States. Lack of ammunition has brought about a sort of forced truce, apparently, among the original contestants. The new States, however, are promptly placing themselves on the defensive. North Dakota, for example, restricts the writing of insurance to resident agents, and declares policies written in another State invalid. The same State provides for a uniform policy of fire insurance to be issued by all companies within her borders. Both Iowa and Maryland prohibit discriminations by life insurance companies in favor of individuals, in amount or payment of premiums or rates, or in other contracts. Virginia requires the companies to provide forms for preliminary proof of loss.

On the subject of banking and bank corporations the most noteworthy legislation of the year was in Massachusetts, where the capital stock, corporate franchises, and personal estate of co-operative banks were wholly exempted from taxation. Regulations of this form of banking were embodied in a general law. Savings-bank investments were restricted to certain specified securities. In Ohio and Vermont careful provision was made for the assessment and taxation of the personal property of savings-banks.

Five States legislated concerning building associations, now recognized, from Vermont to Washington, as an important factor in our modern industrial life. This regulation was in the nature of requirements as to the filing of annual statements of condition with State officers, the depositing of securities, and taxation of business. In several instances, the same rules were applied to all forms of loan and investment companies. Here, also, sharp discriminations are made against "foreign" companies.

(5) The most important features of State finance legislation during the year were the several provisions for taxation of corporations, already briefly discussed. It remains to speak of the systems of local tax laws adopted by North Dakota, Washington, and Virginia. In the two former, no radical departures from the conventional methods of dealing with real and personal property are discoverable. Essentially the same regulations which have been gradually perfected in the older States have been transplanted to these newer Western commonwealths. The recent agitation of tax questions in Pennsylvania, Maine, New York, and other Eastern States, seems not to have produced as yet any marked effect on Western legislation.

In Virginia, on the other hand, the income tax is definitely established as one feature of the new system. This is to apply to all incomes above \$600. Louisiana, one of the States in which the licensing of business and professions has long been customary, enacts new provisions for the collection of such license taxes. This is done also in Mississippi. Kentucky places a tax on the franchises of street railway companies.

Rhode Island requires that hereafter assessors shall value land separately from improvements. Apart from this provision, methods for the assessment of real estate seem not to have been essentially modified by recent statutes in any of the States.

The movement towards municipal ownership of gas and electric light plants is reflected in the laws of Washington, New Jersey, and Ohio. In Ohio a general law was passed, permitting municipal corporations owning natural gas plants to sell the gas to villages or companies. In New Jersey and Washington general laws empower municipalities to construct or purchase and operate electric light plants.

(6) The Western States continue to pass bounty laws for the encouragement of manufactures from native products. Beet-root sugar, potato starch, and binding-twine are among the manufactures thus fostered. The North Dakota laws of last year cover all of these; while Utah adds iron and rope to the list, and exempts from taxation all property used in making Portland cement.

The agricultural interests of the different States were looked

after by most of the legislatures with some care. New York, Maryland, and Virginia made diligent efforts to secure the purity of commercial fertilizers. In North Dakota the counties were authorized to issue bonds to procure seed-grain for needy farmers. In Washington elaborate schemes of irrigation and taxation for irrigation purposes were adopted. A move in this direction was made in the Dakotas also. The stringent laws to prevent deception in the sale of dairy products, which were passed in Ohio, Vermont, and Washington, were of course intended primarily to protect the interests of dairymen rather than to prevent adulterations threatening the public health. Ohio organizes a system of farmers' institutes with lectures, and Kentucky also provides for lectures to farmers at State expense.

In forestry legislation the greatest progress was made in New York, where the State forest commission was authorized to purchase lands for the Adirondack park. Important measures for the creation of this park are pending in the current session of the legislature.

Mines on New York State lands may hereafter be worked by the discoverer on payment of a two per cent. royalty. The commissioners of the Land Office may grant permission to erect buildings for working such mines on State lands.

The limits of a single article will not admit of a more extended survey of the legislative achievements of the year, but this sketch may serve to convey some idea of the nature and extent of the problems with which our law-makers feel called upon to deal. It is no part of the writer's present purpose to discuss the general character of the work which American legislatures are doing from year to year; but, if he may be permitted to venture a conclusion based upon data which it is quite impossible to present now, he is willing to affirm that, on the whole, among the representative States of the Union the amount of positively vicious legislation is exceedingly small, that of useless and foolish legislation is becoming annually smaller, and the chances of really useful and beneficent measures becoming laws are relatively small or great in proportion to the disinterested zeal of the more intelligent and progressive of the citizens.

WILLIAM B. SHAW.